REMARKS

The July 8, 2010 Office Action regarding the above-identified application has been carefully considered; and the remarks that follow are presented in a bona fide effort to respond thereto and address all issues raised in that Action. Several of the dependent claims have been amended to better conform to the revised language of the respective independent claims as presented in the previous response. Since these amendments are in the dependent claims and serve only as clarifications, the changes should not narrow overall claim scope, raise any issues regarding support or new matter, or require further search or consideration. Hence, entry of the claim amendments should be appropriate at this stage of prosecution, under 37 C.F.R. § 1.116. Entry of various comments regarding the claims and/or the art, in the Office Action, should not be construed as any acquiescence or agreement by Applicants with the stated reasoning, regardless of whether or not these remarks specifically address any particular comment from the Office Action. For reasons discussed below, it is believed that this case is in condition for allowance. Prompt favorable reconsideration of this amended application is requested.

Claims 74, 75 and 77-87 are pending in this application, of which claim 74 is the only pending independent claim. The latest Action rejected all of the remaining claims under 35 U.S.C. §103(a) as unpatentable over U.S. Publication No. 2004/0051741 to Venturino, in view of U.S. Publication No. 2005/0076312 to Gardner et al. (hereinafter Gardner) and US Patent No. 4,291,198 to Anderson et al. (hereinafter Anderson). Applicants respectfully traverse this rejection.

Independent claim 74 relates to a cellularly communicative electronic device that has a display, a keypad and a processor. The claim recites that the keypad includes alpha or numeric keys. Venturino discloses a tabbed menu arrangement for a digital camera display. There is a

brief suggestion to adapt the menu to a cell phone, but the specific buttons disclosed specifically relate to camera functions, only. For example, the Venturino camera includes digital buttons 84-102, and the rejection relies on the Venturino disclosure of those buttons to meet the claim requirement for alpha or numeric keys. However, paragraph 0020 describes those buttons as including "menu button 84, navigate button 86, hotkey button 88, digital status button 90, OK button 92, cancel button 94, delete button 96, tag/record button 100 and 4-way switch 102 having top (12 o'clock) position 104, right side (3 o'clock) position 106, bottom (6 o'clock) position 108, and left side (9 o'clock) position 110." As such, Venturino does not expressly disclose a cellularly communicative device keypad that has **alpha or numeric** keys as positively required by Applicants' independent claim, and the analysis in the rejection is in error on the point.

The independent claim recites that the keypad includes alpha or numeric keys **and** a dynamically assignable function key. As claimed, the dynamically assignable function key, however, is not one of the alpha or numeric keys of the keypad. In the claim, the processor is programmed to implement a number of functions, recited in the claim as follows:

> (1) a first process thread, involving displaying a first screen on the display, the first screen concurrently comprising:
>
> (a) a first level menu providing a plurality of functional groupings for user selection, on a first area of the displayed first screen, wherein: **each of the functional groupings represents a different group of cellular device functions offered by the cellularly communicative electronic device**, and **the cellular device functional groupings include call messaging, contacts list, obtaining device services, recent calls, and settings and tools**; and
>
> (b) on a second area of the displayed first screen, a second level menu of choices for user selection from within a selected one of the functional groupings of the first level menu;
>
> (2) a second process thread, responsive to a cursor control input from a user, involving moving a cursor on the display across at least the second level menu to indicate a selection of one of the choices on the displayed second level menu; and

(3) a third process thread, responsive to a user acceptance of the selected one of the choices, involving displaying a second screen on the display, the second screen concurrently comprising:

(a) an area containing information relating to the selected choice; and

(b) **a key assignment area displaying a function of the cellularly communicative device associated with the selected choice, dynamically assigned to the function key of the cellularly communicative device,**

wherein the processor is programmed to cause the cellularly communicative device to perform the dynamically assigned function associated with the selected choice, upon user activation of the function key during the display of the second screen. (emphasis added)

As noted, Venturino discloses a tabbed menu arrangement for a digital camera display, and there is only a brief suggestion to adapt the menu to a cell phone. Hence, the specific device functions displayed in Venturino's menu relate to camera operations, not the cell phone functions positively recited in independent claim 74. The Examiner recognizes that Venturino does not disclose a dynamically assignable function key that is not one of the alpha or numeric keys of the keypad and fails to disclose many aspects of the claim requirements quoted above. The rejection cites to Gardner and Anderson to purportedly make up for the many deficiencies of Venturino. It is respectfully submitted that Gardner and Anderson are not sufficient to make up for all of the deficiencies of Venturino.

For example, the independent claim specifies a first level menu providing a plurality of functional groupings where (a) each of the functional groupings represents a different group of **cellular device functions** offered by the cellularly communicative electronic device, **and** (b) those cellular device functional groupings specifically include **call messaging, contacts list, obtaining device services, recent calls, and settings and tools**. The dynamically assigned

function that is performed upon user activation of the function key during the display of the second screen is a cellular device type function selected from among functions of one of the groups of cellular device functions. Venturino is the only cited document that specifically relates to a cellularly communicative electronic device, and Venturino provides only the briefest mention of such a device without specific teachings about any groups of cellular device functions or selection and performance of any particular cellular device function.

It is respectfully submitted that Gardner and Anderson do not make up for all of these deficiencies of the basic citation to Venturino.

The Gardner publication discloses a software utility navigation aid for hierarchical structures such as file managers, taxonomies, or tables of contents that displays a dynamic menu when the mouse cursor is hovered over an activator used to swap the expanded/collapsed state of a node displayed in a hierarchical structure (see Abstract). The menu contains entries that identify in which display level of expansion the node resides based on the structure's fully collapsed condition (from the root node), the number of display levels to which this branch of the hierarchy can be expanded, and the number of nodes that will be exposed when this branch is expanded to each of those levels. Each displayed entry in this menu, positioned both below and above the identified node, can be clicked to cause the hierarchical structure to expand or collapse to that display level. Gardner does not mention a cell phone or the like, only a computer. Even if Gardner provides some teaching of 'process threads' and menu display 'levels,' such computer centric teachings would not lead one of skill in the art to modify the camera based display hierarchy of Venturino either to meet the cellular device functional grouping requirements or the requirement to assign a cellular device function to a dynamically assignable function key and then perform the cellular device function upon user activation of such a key.

Anderson does teach dynamic assignment of functions to keys on a communication device that are separate from an alphanumeric keyboard. However, the device is intended as an intelligent general purpose landline telephone device. It is not a cellularly communicative device and the displayed functions are not specific to a cellular type device. Even if some of the telephone related functions would be analogous, Anderson does not teach all of the functional groupings recited in claim 74. Anderson's menu display of landline functions is not a teaching of the complete set of the cellular device functional groupings recited in the claim. One or more of the recited groupings would still be missing, for example, a functional grouping relating to various types of recent calls and another functional grouping relating to cellular device type settings and tools. Setting a cursor, as identified in the rejection, would not be a display of a cellular device setting/tool functional grouping. Hence, the combination of Venturino, Gardner and Anderson still would not fully satisfy the requirement for "a first level menu providing a plurality of functional groupings for user selection, on a first area of the displayed first screen, wherein: each of the functional groupings represents a different group of cellular device functions offered by the cellularly communicative electronic device, and the cellular device functional groupings include call messaging, contacts list, obtaining device services, recent calls, and settings and tools."

Upon entry of the above claim amendments, claims 74, 75 and 77-87 remain active in this application, all of which should be patentable over the art applied in the Action. Applicants therefore submit that all of the claims are in condition for allowance. Accordingly, this case should now be ready to pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the July 8, 2010 Office Action. However, if any further issue should arise that may be addressed in an interview or by an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Keith E. George
Registration No. 34,111

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 KEG:apr
Facsimile: 202.756.8087
Date: September 8, 2010

Please recognize our Customer No. 20277 as our correspondence address.